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London

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2nd June, 1887



# LAND TRANSFER BILL, 1887

*REPORT OF THE COMMITTEE ON THE BILL  
AS REPRINTED*

Printed by

SPOTTISWOODE & CO NEW-STREET SQUARE, LONDON

333  
215  
*Adopted by the Council.*

2nd June, 1887.

## LAND TRANSFER BILL, 1887.

*Report of the Committee on the Bill as Reprinted.*

SINCE the adoption by the Council on the 19th April, 1887, of the Report of the Committee and its transmission to the Lord Chancellor, replies have been received from many of the country Law Societies, and in the appendix to this Report will be found a summary of the opinions expressed.

In consequence of the numerous suggestions made to the Lord Chancellor from various quarters, the Bill has been considerably revised, and is to be considered in Committee of the House of Lords when that House re-assembles after the Whitsuntide vacation. In view of this consideration, the Committee submit to the Council a further Report upon the provisions of the Bill, and for convenience of reference, as well as for general information should this Report be generally circulated, they have practically embodied most of their former observations.

The general scheme of the Bill remains unaltered; registration under it is still made compulsory, and the principle of an indefeasible as opposed to a guaranteed title is adhered to. But, as will be seen on going through the Bill, many of the suggestions which the Council made have

been adopted either entirely or to a considerable extent. The Bill, however, is only supplemental to the Land Transfer Act, 1875, and it is absolutely necessary that before the system can be properly worked there should be a consolidation of the two statutes, so as to remove the unavoidable confusion inherent in an attempt to graft a system of compulsory registration upon one which was merely optional.

The Committee adhere to the view expressed in their previous Report, that compulsion is unjust and should be unnecessary, and they retain the belief that if a system of registration cannot be worked except by pressure of compulsion, it will be because it has not been made suitable to the requirements of the country, and will hamper instead of facilitate the dealings with real estate. They refer on this point to the arguments advanced in their Report, and to the following more detailed observations.

The main object proposed to be attained by registration of title is to make dealings with land, especially sales and mortgages, cheap and easy. The Committee believe that, under the existing and recently much improved system of conveyancing, sales and mortgages are now effected with cheapness and ease. But, assuming this to be a disputable proposition, they make the following remarks on the Bill as reprinted.

The economy is to be effected by putting an end to periodical investigations of title. On the other hand, new expense will be rendered necessary, viz., fees or percentage for the maintenance of the Registry, and percentage for the Insurance Fund.

The facility is to be obtained by the transfer of a great part of the business from private practitioners to the Land Transfer Office.

Experience alone can show whether the Land Transfer Office will fulfil the promise of cheapness and ease which leads to its establishment; whether the saving of part of the cost now incurred will or will not be outweighed by the new expense imposed by the proposed scheme; whether the facility will or will not be afforded by the transfer of business from private hands to a public office; in short, whether it will be cheaper and easier to deal with land under the system intended to be established by the Bill than under the present system. Dealers in land ought, in the judgment of the Committee, to be left free to avail themselves of the teachings of experience, and to be at liberty to register their land or to leave it unregistered as they may find most conducive to free and unrestricted dealing.

There are a multitude of small transactions which take place very frequently in England, in which the business of conveying land is now transacted without investigation of title at very small cost and with great despatch. In such cases the scheme of registration proposed would probably increase cost and cause delay.

On this point the Committee beg leave to quote the evidence which Lord Cairns, while Lord Chancellor, gave on April 28, 1879, before the Select Committee of the House of Commons on Land Transfer:—

*Extract from the Evidence of Lord Cairns before the Committee of the House of Commons.*

"2871. The difficulty with regard to compulsion has always struck me in this way. There is, in the first place, the question how far you have the right to make the adoption of a particular system compulsory, but there is a question of still greater importance, namely, how far it is possible to make it compulsory. Now, as I have never yet seen any way by which it could be made compulsory, perhaps the first question is not so important as the

second. Certainly, no way that has yet been proposed would have the effect of making it compulsory to put the land upon the Register.

"2873. If you make the registration of land compulsory you must at once open throughout the whole of the country, from the north to the south, and from the east to the west, a complete system of local offices, because you cannot make it compulsory upon a man to come up to London to register a few acres of land; you must have your whole machinery ready before the Act begins to work. That is an enormous thing in this country, and frightful to contemplate; and in the next place you must take care to do it at an expense very much smaller than any fees of registration have been proposed to be. Perhaps the Committee will allow me to mention what came before me in 1874 on the subject of expense.

"There were a number of solicitors in the Midland counties, and in some populous towns in the South of England, who communicated with me, and showed me certain statistics, some of which I mentioned in Parliament. They showed me that there was going on in various populous parts of England a transfer of very minute portions of land in very great quantities and at a very small expense. Some of the solicitors told me that they had cut up a piece of land into 300 or 400 parcels to build small houses for working people upon; that their position and character was known, and it was known that they had satisfied themselves that there was a good title. Those pieces of land were bought with no investigation of title, but upon the credit of the solicitor who had them for sale, and they made a charge, including every expense, to the purchasers, and the charge in some cases would be as low as 10s., and in a great many cases as low as 20s. Now, if to transactions of that kind you superadd a tax for registration, unless it is extremely small, you interpose a very great difficulty in dealings, which we should be very sorry to interfere with or hamper in any way.

"3037. I am afraid that I cannot say that it would be

either expedient or safe to introduce compulsion generally; and, if so, I do not think that it would be safe or expedient to introduce it into one county."

The scheme of compulsory registration of title affects not only the *dealers in land*. It applies also to the landowner who wishes neither to sell nor to mortgage, but desires to maintain his estate during his life, and to hand it down at his death to his successor unimpaired. If the proposed scheme were to become law, such a landowner must cause himself to be registered as proprietor of his land. He would be advised, we may assume, to choose the least expensive mode of complying with the requirements of the law, and to register himself with a possessory title.

According to the system now in force under the Land Transfer Act, 1875, the course would be as follows:—

The landowner would have to produce to the Registry and leave there the last settlement or other deed under which he held his estate, and also each document under which he had acquired land by purchase or exchange; and a description of his estate by map and schedule, with evidence by statutory declaration or otherwise, to show that he was in possession of the estate as owner under the documents produced. If the landowner did not possess a map of his estate, showing with accuracy its boundaries, divisions, and other particulars, and a schedule corresponding to it, it would be necessary to take the ordnance map, if it had been completed for the district in question, and if not, the tithe map, or such other public map as might be in existence, and to compare it with the rental or schedule of the estate, so as to mark upon it the farms and lands belonging to the landowner, to make such corrections as the changes in the face of the land since the preparation of the map might render necessary, and to

correct the boundaries where the estate adjoined the land of other proprietors. This last point would require special care, because it happens seldom, if ever, that the existing public maps have been prepared with a view to defining boundaries between adjoining owners, or that the persons preparing them have had the means of ascertaining such boundaries. The business of preparing an accurate map and schedule would be similar to the business of preparing a particular and map of an estate which is to be offered for sale by auction, and would be not less expensive.

The map and schedule having been either ready in the hands of the landowner, or prepared for the purpose of registration, a fair copy would be made and carried into the Registry. The map and schedule would there be examined by the proper officer in connection with the documents of title and the declaration of title, and if found correct they would be engrossed, so as to form part of the Register; the map for the Register being prepared by the Land Commissioners from the best public map at their command.

The land would then be registered, and the Land Transfer Board would deliver to the registered proprietor of the land the proper certificate.—(Clause 28.)

For this business the landowner would have to pay:—

The charges of his solicitor;

The charges of his land agent or surveyor; and

The fees of the Registry, which would probably be calculated on a percentage on the capital value of the estate.

The total amount would vary with the size of the estate and the circumstances of each case. It would probably be least in the case of an estate of agricultural land; but even in that case, with an estate of ordinary dimensions,

it could not fail to be large. Landowners now find considerable difficulty in meeting their present obligations. An additional burden would be felt to be oppressive.

The benefit promised by the scheme of registration of title is increased facility of selling or mortgaging, but this benefit is of little or no advantage to the landowner who wishes only to maintain and improve his estate.

The Committee are of opinion that if, instead of aiming at an absolute or indefeasible title (which is unattainable since if by any accident or oversight two persons are, as has already happened, registered as proprietors with an absolute title to the same land, one or other must be ejected and his title be defeated), the principle of a guaranteed title, as in the case of the Australian Statutes, were adopted, many of the difficulties which have rendered landowners reluctant to place their land on the register would disappear or be greatly diminished. For, if the principle were accepted that registration of title should not prejudice or defeat prior existing estates or interests, but that the registered proprietor, if a purchaser for value without notice, should, if ejected or damaged, receive compensation from the insurance fund, the Registrar could go much further in accepting less than an absolutely perfect title than he does (in practice) now, under the powers given him by section 17, sub-section 3, of the Act, and might act on the investigation and certificate of solicitors acquainted with the applicant's title, and need not insist on much (if any) publicity. He could in fact act as the solicitor for a purchaser acts at present, secure in the knowledge that his action could not prejudice any rightful owner, and that the chance of any interference by an undiscovered claimant would be exactly the same as at present, while, moreover, if any such interference were successful, the registered owner would be indemnified.

Partly con-  
cluded,  
Clause 21,  
sub-section  
(1) of 1901



If the process of registration were thus facilitated, and the needless challenging of objections and perhaps of litigation were removed, the Committee consider that the cost of registration would be greatly reduced, and the subsequent dealings with registered land be much simplified. They believe that under such a system landowners would readily avail themselves of the many advantages incident to registration, and that as in the case of the Australian Colonies, it would be found unnecessary to resort to compulsion.

The Bill as at present framed follows the plan of the Act, and is based upon the principle that title is to be or to become absolute and indefeasible, for although by clause 16 the High Court may in case of forgery, fraud, or error either direct payment of compensation or restoration of the land according as the Court may think equitable under the circumstances, no principle is laid down to govern the exercise of this discretion, which apparently is not to extend to cases of first registration in which an absolute or qualified title has been registered. In the opinion of the Committee the rightful owner should be reinstated, at least in cases of first registration, and not merely left to make out a case, while, of course, the proprietor, who has been wrongfully placed on the Register, should, if innocent of the fraud or error, be indemnified out of the insurance fund to which he will have contributed.

Whether the Lord Chancellor adopt the foregoing suggestions or not, the Committee are satisfied that solicitors as a body will do what lies in their power to assist in carrying out any system which Parliament may determine to be most for the public benefit, and the suggestions in this and the former Report have been framed in this spirit. Perhaps the Committee may be permitted in this connection

to quote the Report of the Land Transfer Commission of 1870, which, speaking of solicitors, says: "These gentlemen were not hostile to the plan of registration; on the contrary, they came into the office seriously intending to use its machinery for the benefit of their clients."

With these prefatory observations, the Committee proceed to the details of the Bill.

The operation of the Act is, and that of the Bill, so far as registration is concerned, is intended to be, confined to England and Wales and (except the provisions relating to descent and abolishing estates tail) to land of freehold tenure or held under a lease which is either mediately or immediately derived out of land of freehold tenure.

## PART I.

### CONSTITUTION OF LAND TRANSFER OFFICE.

The machinery provided by the Act consisted of a Land Registry with the necessary staff. This is to be abolished, and in its stead the Bill proposes to create a Land Transfer Board, with a principal office in London, and district offices, to each of which a Land Transfer District is to be from time to time attached by Order in Council. Notwithstanding the statement in the memorandum prefixed to the Bill that the Board is to comprise "persons of experience in organisation and administration as well as in conveyancing," the Land Transfer Board is really the office of Land Registry under another name, for the Land Transfer Board is to consist of a Registrar-General, a Chief Examiner of Titles, and an Assistant-Registrar. To this Board, which is to be from time to time appointed by the Lord Chancellor, are to be attached such officers as the Lord Chancellor,

Clause 1.

with the concurrence of the Treasury, may from time to time assign.

Great and well-founded dissatisfaction is felt with this arrangement, and with the absence of any prescribed qualification. The Committee cannot too strongly urge that the Board, which will be at the head of so new and comparatively untried a system of conveyancing, should be composed of persons conversant with, and practically versed in, the law and practice of conveyancing, and should therefore, as was required by section 106 of the Act which section the Bill proposes to repeal, be selected from practising barristers and solicitors, and should be presided over by a judge of the Supreme Court, or some one of equal position and authority. The Committee are satisfied that not only should the Board consist exclusively of trained lawyers, but that the position of a member of the Board should be made sufficiently attractive to secure the services of the very best men in the profession.

The working of the Act will depend very much upon the branch offices, but the Bill does not define what are to be the duties of the branch offices, nor what is to be the qualification of the District Registrars, nor on what principle the district of each branch office is to be formed. Unless these matters are explained it is impossible to form a trustworthy judgment as to the probable success of the measure, and the Committee suggest that the outlines of the arrangement proposed for branch offices and Land Transfer Districts should be explained in the Bill, and settled by Parliament.

## PART II.

### COMPULSORY REGISTRATION.

The right to apply for registration, which by the Act was strictly limited, is by the Bill (clause 4) extended to "any person appearing to the Land Transfer Board to be interested in the land, and to be capable of showing a title to or a right to convey the fee simple of or the first estate of freehold or the whole interest in the land, whether with or without consent, and whether for his own benefit or not, and whether subject or not to incumbrances," and as the Bill proposes to put leasehold land on a similar footing in all respects with respect to registration to freehold land, all land capable of registration may be registered with an absolute, qualified, or possessory title, and the right to mines or minerals may be separately registered. Clauses 2-9.

The Bill aims at making registration of title compulsory but gradual, the introduction of registration in any particular district being left to Orders in Council, so that the system may be tried at first in selected districts to be from time to time enlarged or supplemented, and may eventually become universal.

The effect of an Order in Council declaring that registration is to be compulsory in a land transfer district is to be (clause 2) that from and after a day to be specified in the Order every person in possession of any land in the district capable of registration must before selling, settling, mortgaging, or leasing for more than twenty-one years such land be registered as a proprietor of the land, or have a proprietor registered on his behalf, and until a proprietor of the land has been registered a conveyance or lease executed after the specified day will have even less operation than a contract now has.

The Committee suggest that the several Orders in Council should always allow an interval of not less than six months between the creation of the land transfer district and the date after which registration is to become compulsory, in order to enable intending vendors, lessors, &c., to prepare for and complete registration. For, if registration is to be made compulsory, as is at present the scheme of the Bill, it is evident that when the compulsory clause first comes into operation there will necessarily be an enormous number of applications poured into the Register Office, and, unless ample time is given for preparation and organization, the conveyancing work of the district will fall heavily into arrears, and the system at once acquire a bad name, which will not easily be lost.

The Bill as revised retains the principle of registration by the grantor and not necessarily by the grantee, and will therefore necessitate, as a general rule, a double registration, the advantages of which the Committee fail to appreciate. The Committee desire to repeat their opinion, which is shared by most of the country societies, that registration, if made compulsory, should be enforced on the first dealing with land after the establishment of the land district in which it is situate, and that the duty of registration should be thrown on the grantee and not on the grantor.

Take, for example, the case of the sale of a small piece of land, part of a large estate. If the scheme proposed by the Bill be adopted, the owner of the large estate would probably be advised not to begin under the new system by registering himself as proprietor of the fragment proposed to be sold, but to comply with the requirements of the Act as to his whole estate; and this seems to be in accordance with the spirit and intention of the Bill. In that case the

sale of the small piece would either be delayed until the large estate had been registered, or it would be abandoned by the vendor from dread of the trouble and expense of registration.

The double registration seems, however, to be deliberately intended. For the proviso now added to clause 2 removes the need of registration before conveyance in specified cases when the proprietor is not a party to the conveyance, and in those cases throws the duty of registration on the grantee.

If, however, the words "on his behalf" (clause 2, line 10) were omitted, it would be possible for a proprietor, on applying for registration, to have the grantee registered in his stead; and clauses 4 and 7 are framed as if this view had been in the mind of the draftsman, though, if so, it is certainly not carried out. Or the objection could be met by allowing a conveyance prior to the registration of a proprietor of the land, or a contract made subsequently to confer a right to obtain registration (as in clause 2, sub-section *b*).

Sub-sections (*a*) and (*b*) of this clause have been revised so as to meet the difficulties pointed out by the Council, and a conveyance executed before registration does not incapacitate the grantee from taking any benefit in the land conveyed. A person succeeding under the will, or on the intestacy of a proprietor dying before registration, is apparently intended to have the right to obtain registration, and, on registration being complete, his rights in the land are to take effect as from the date at which they would have otherwise accrued. The Committee, however, think it doubtful whether such a person would be qualified to apply for registration under clause 4, sub-section 1, unless that sub-section is enlarged.

The suggestion made by the Council, that in the case of settled lands the tenant for life should be entered as registered proprietor, has been adopted (clause 5, sub-section 1), and in the following sub-sections provisions have been inserted to prevent this entry from enlarging the estate of the tenant for life, or prejudicing the rights of the trustees or reversioners. But the duty of entering on the register the name of a succeeding tenant for life is still cast upon the trustees, and the executors of a will creating a settlement are still to be deemed trustees until other trustees are appointed. The Committee remain of opinion that the duty of registration should be thrown upon the succeeding tenant for life, after notice to the trustees; or that upon refusal or failure by the trustees the tenant for life should have power to register; for it may well happen that the trustees may decline to carry out a duty involving some expense which they may have no funds to meet.

The right to apply for registration is by the new sub-section (6) given to a tenant for life who succeeds to settled land before trustees of the settlement (if at the death of the preceding tenant for life there were no trustees) have been appointed. And in the case of a person entitled under a defeasance, the duty of registration is thrown on the successor and not on the trustees.

The Committee suggest that, inasmuch as the registration of a proprietor as tenant for life necessarily implies the existence of a settlement, words should be introduced to relieve a purchaser or other dealer with the land from being affected with notice of the trusts of that instrument.

Clause 6, the provisions of which in the Bill as originally introduced conflicted with the provisions of section 30, has been entirely re-drawn, and is now clause 8. As now drawn, it is confined to the object of giving to the personal represen-

Amended  
Clause 4,  
sub-section  
(2) of Bill

tatives of a sole-registered proprietor, or the survivor of several registered proprietors, the right to deal with the land or charge, and omits all reference to the liability of real estate to debts, which is a matter dealt with in a subsequent part of the Bill.

The doubt suggested in the Report of the Council, whether the effect of registration was not simply to record the state of the title at the date of registration without forbidding the continuance of all future dealings according to the present system of conveyancing, is admitted to have been well founded, and clause 9 is intended to remove the doubt by declaring that nothing in section 49 or any other part of the principal Act shall enable any legal estate or interest in any registered land or charge to be conferred otherwise than by a registered disposition.

### PART III.

#### EXTENSION OF LAND TRANSFER ACT.

##### CONFIRMATION OF POSSESSORY OR QUALIFIED TITLE.

Part III. of the Bill introduces an entirely new mode of acquiring an absolute title without (apparently) much, if any, investigation of title except by or on behalf of the applicant himself. Any person registered with a possessory or qualified title (and it may probably be assumed that most registrations will be with possessory title as least costly and troublesome), may (clause 10) apply for confirmation of his title as an absolute title at the expiration of five years from the date of publication of the first notice. The application is to be accompanied by an affidavit with prescribed particulars, and after the expiration of five years from the first publication of notice of the application, the applicant

Classes  
10-16.

may, in the absence of any effectual opposition, be registered as an absolute owner. The notices are to be published in the month of November in each of the five years.

It appears to the Committee that the scheme for confirmation of a possessory or qualified title involves a very important alteration of the law, and one which is liable to give risk of abuse.

The introduction of a new clause (clause 16), authorising the Land Transfer Board on such an application to grant a qualified title only, and not necessarily an absolute one, as originally contemplated, is a great improvement and safeguard.

But the Committee do not see any sufficient reason for allowing a title originally registered as possessory, and therefore with but slight evidence, to become either absolute or qualified, *i.e.*, absolute except against certain persons, after so short a period as five years, or indeed at any shorter period than is required by the Statute of Limitations for the time being in force. If the period fixed by the Statute of Limitations is deemed too long, it should be shortened by a general Act; and the Committee deprecate the introduction of two modes of limitation, the one by lapse of time applicable generally, and the other by advertisement applicable only to special estates.

They regret that the Bill does not make it necessary that the solicitor for the applicant should concur in the affidavit, as is required by the Rules under the Act.

It has been suggested to the Committee that the month of November would be an inconvenient month for the advertisements, in consequence of the number of railway notices which appear at that time. But the Committee incline to the opinion that it is on the whole desirable to have a fixed month for all such notices, and that the public are now in

the habit of looking out in November for advertisements affecting their locality.

The clauses have been carefully revised, so as to leave a very wide discretion in the Land Transfer Board, and to protect as far as possible persons who may have adverse claims; and the suggestion of the Council that a change of proprietorship should not determine the application which the successor should be at liberty to continue, has been adopted (clause 13, sub-section 6). Clause 9, sub-section 3, has been struck out, and no special provision is made for costs in connection with any petition against an entry confirming the title, and this, in common with so many other matters, appears to be left to the rules.

The Committee see no reason for the special protection given by clause 15, subsection (3), to persons absent from "the United Kingdom in the service of the Crown," and think that the same protection (if necessary at all) should be extended to all persons out of the kingdom.

Limitation  
Article 21  
Clause 15  
Sub-section  
3 of Bill

#### BOUNDARIES.

This part of the Bill has been greatly altered since its original introduction, but is even less likely to be often made use of than in its original shape. For the clauses as originally drawn promised finality, as the result of an application involving probably considerable discussion, if not actual litigation. But, as the clauses now stand, the boundaries even when ascertained and entered in the Register are not conclusive. By the new clause (clause 19), if the boundaries as entered in the Register are not in accordance with the actual boundaries as enjoyed by the registered proprietor (whether apparently by reason of mistake at the time of entry, or by subsequent encroach-

Clauses  
17-19.

ment on the part of an adjoining owner), the registered proprietor, if he would under existing law be barred by the Statute of Limitations, is to be similarly barred notwithstanding the entry. If the element of finality is eliminated, the object of this part of the Bill is not clear, and few landowners will care to embark on so delicate an investigation as is incident to all boundary questions for the attainment at last of so qualified a result.

Subject to this general observation, the provisions of this part of the Bill as revised are greatly improved. A proprietor may apply to have the boundaries of *part* of his land determined without necessarily involving an inquiry into the boundaries of the entire estate. The affidavit accompanying the application is to set forth the grounds of the applicant's knowledge and belief that the persons named are in possession of the adjoining lands. Opposition may be made on behalf of a specified class of persons, or of the public, without being accompanied by alleged injury to the opposing petitioner, as was necessary in the Bill as framed; and a joint application to settle boundaries may be made by adjoining owners, although only one may have registered his land.

#### ESTABLISHMENT OF INSURANCE FUND.

The Bill provides for the establishment of an insurance fund by means of an insurance fee upon first registration with absolute or qualified title, and on subsequent dealings with registered land.

The Committee consider that this fund should be established at the cost of the public and not of landowners.

Inasmuch as the registration is assumed to be compulsory and not optional, the benefit must be assumed to be to the public generally rather than to landowners as a

class. For if it were beneficial to them as a class, compulsion would be unnecessary.

If registration were optional, an insurance fund would not be required, as the system would be in substitution for, and, on the hypothesis, preferable to, the present system of conveyancing, and would need no other safeguarding than that which the present system affords. If, however, registration is to be compulsory, landowners must of course be indemnified against any mistake, fraud, or error which they are against, or, at least, irrespective of, their consent compelled on public grounds to risk.

But it is obviously unfair and unreasonable to compel landowners to incur a risk which the Bill assumes they would not do voluntarily, and at the same time to throw on them the cost of insurance against the consequences; and the insurance against mistake or fraud should fall on the public, and be provided out of the Consolidated Fund.

Experience here and elsewhere shows the extreme infrequency of mistake or fraud, and it is unlikely that any serious claim will have to be met. But the premium charged will add greatly to the unavoidable cost incident to registration, and will, for the reasons already given, be felt to be an unfair tax upon the landowners, who more, perhaps, than any other class, are feeling at this time the consequences of the severe agricultural depression of the last few years.

The revision of these clauses (20 and 21) has with one exception been confined to verbal alterations and additions, rendered necessary either by other changes in the Bill or in order to make clearer the grounds on which compensation may be sought. The exception is in clause 20, sub-section 1, which limits the right to compensation to cases in which the person aggrieved "cannot obtain compensation from

the persons liable to pay the same." In other words, instead of affording to a registered proprietor a ready means of indemnity, provided he can satisfy the Land Transfer Board of his right to compensation, leaving the Board, under section G of the first schedule, to recover from the person or persons (if any) liable in respect of the mistake or wrongful act which caused the loss, the aggrieved proprietor is first to exhaust his legal remedies (which must in many cases involve much cost and delay, and in case of fraud can scarcely do more than result in a judgment against a pauper), and then apply to the Board for compensation, which will not include any indemnity against the legal expenses which have been necessarily incurred. The Committee submit that this is unreasonable, and that the landowner having no option but to register his land, should have a full and ready indemnity against loss caused by some act or omission for which he is not responsible, since, if he were, he would have under the provisions of the scheme in the first schedule no right to compensation at all.

The compensation provided by the insurance fund is by the Bill limited to "the capital value of the land or charge as ascertained for the purpose of the payment of the insurance fee." Under the Australian system of registration the capital value for the purposes of the fee is fixed (if the Registrar requires it) by the declaration of the owner, supported (if required) by a licensed valuer; and the measure of damages is fixed at the full value of the land at the moment of deprivation or loss of right, and this principle would have to be adopted if the system of guaranteed title be substituted for that of indefeasible title.

The Committee are of opinion that, if the system as embodied in the revised Bill is to be adopted, there should be a right on the part of any registered proprietor to

Amended,  
Clause 20,  
sub-section  
(1) of Bill.

Adopted,  
1st schedule  
par. K.

increase his insurance by filing a declaration of increased value and paying an additional premium.

#### EXTENSION OF REGISTRATION.

Clauses 22 and 23 are altogether new, and provide for an application for registration with a qualified title, and for registration of undivided shares, and of chambers or other portions of a house constituting a separate freehold, none of which could have been dealt with under the Bill as drawn.

Clause 24, which provides for the registration of rights in or over land, has been extended, but the Committee retain the opinion expressed in the former Report, that unless such registration is compulsory, so as to make the Register an exhaustive statement of the title to registered land, it would be preferable not to allow registration at all of matters incident to most land, and readily ascertainable on inspection or ordinary inquiry. On the other hand, to make the Register an exhaustive statement of title would involve greatly increased cost and complication. Section 18 of the Act, as extended by clause 29 of the Bill, appears to do all that is necessary.

Clauses  
22-24.

#### TRANSFERS AND CHARGES.

These clauses are slightly added to, so as to make more clear the powers of a registered owner of a charge on land to deal with his security, and to ensure these powers being exercisable by a transferee, and not only by the first registered proprietor.

Clauses  
25-27.

#### MISCELLANEOUS.

Clause 25 of the Bill is altogether struck out, and clause 32 substituted, and the provisions now proposed

Clauses  
24-37.

for the registration of a married woman's interest in land appear sufficient and clear.

Sub-section (3) to clause 35 provides an appeal against the refusal of an application to register, which is certainly necessary, and was not before given.

The power of the Lord Chancellor to make rules from time to time is very wide, and is in some respects extended by the revised clause, but sub-section 10 of the original clause, which conferred upon the Lord Chancellor actual legislative power, has been struck out, and the suggestion made by the Council that Parliament should have express and not merely implied power to annul any rules has been adopted. But it may be doubted whether under the clause as now inserted (clause 37 (2) ) the functions of the Houses of Parliament are not limited to the adoption or rejection of the rules as a whole, and this might, especially in the case of the first rules, which must necessarily be voluminous, be extremely inconvenient, since in order to strike out a particular rule or class of rules, Parliament would be compelled to annul the whole. The Committee suggest that the clause should be altered in this respect, and allow either House to annul or modify all or any of the rules laid before the House.

The Committee feel bound to repeat the objection which appears to them to exist to vesting the power of making rules in the Lord Chancellor alone. The whole character of the measure, and the greater or less success of the proposed scheme, will depend to a very great extent upon the rules issued from time to time for the guidance of applicants and of the Board. Scarcely a clause of the Bill purports to do any act except in "the prescribed manner," or on "the prescribed conditions," or within "the prescribed time," and it is not too much to say that the framer of the rules can

greatly extend or materially diminish the scope and effect of the Bill when passed into law.

No doubt the Lord Chancellor will act upon the best information, and the rules when issued may, if open to grave objection, be annulled by Parliament; but the remedy is not one to be relied on, and the Committee entertain strongly and unanimously the opinion that the rules should be framed by the Land Transfer Board, assuming its constitution to be strengthened as already suggested, or at all events by a tribunal on which practising barristers and solicitors are represented, and should be submitted to the Lord Chancellor for approval and issue. Upon the importance of some such restriction the Committee refer to the unanimous expression of opinion obtained from the country Law Societies.

The Committee strongly urge that the rules, however and by whomsoever framed, should be issued and in the hands of the profession and the public not less than six months before the issue of any order in Council declaring the registration of land compulsory, so that preparation may be made for the revolution in dealing with property in that district which such a declaration will involve. Unless this or some sufficient period, is allowed, the commencement of the new system will inevitably be marked by extreme confusion and disappointment, since neither officials nor practitioners will have any previous knowledge of the work which they are expected to perform. The Bill alone without the rules contains nothing but a bare outline indicating the framework of the intended organisation and procedure, leaving all details (and in such a system details are all important) to be "prescribed."

The Committee further urge that the costs to be charged by solicitors in respect of registration and the



dealings with registered land should be fixed by the special tribunal constituted under the Solicitors' Remuneration Act.

#### PART IV.

##### AMENDMENTS OF LAW OF REAL PROPERTY.

The Bill proposes to abolish all existing modes, rules, or canons of descent as regards real estate; gives to the personal representatives of a copyholder a year within which to dispose of the copyhold land without taking admission; empowers personal representatives to appropriate real or personal estate in satisfaction of a legacy or share in residue; assimilates, except on one point, the rules of devolution and administration of real and personal estate on the death of the proprietor; enlarges all estates tail which could without any consent be barred into estates in fee simple absolute without any deed; declares that expressions which before the Act would have created an estate tail shall create an estate in fee simple; repeals the Statute of Westminster the 2nd, and authorises the redemption out of capital of improvement rent charges temporary or permanent. The amendments authorising the appropriation of legacies or share of residue, enlarging estates tail into estates in fee simple, and authorising the redemption of rent-charges out of capital, are retrospective. The last-mentioned amendment was brought before the Lord Chancellor by the Council quite recently.

The amendments introduced into the Bill go much further than was originally contemplated, and assimilate the devolution, on the death of the proprietor, of real and personal estate for all purposes, except that real estate is to remain liable to succession duty, and is not to become

liable to probate or legacy duty, and that a surviving wife or husband is to be entitled on intestacy to a life interest in the husband's or wife's real estate, with a proviso saving the rights of persons married before the passing of the Act, and of infants and lunatics (clause 39, sub-sections (2) and (4)).

The Committee think that the law should either be made the same as to both real and personal estate, or should be left as at present, and that the provision by which a life interest in real estate is given to a surviving husband or wife is open to serious objection. No obligation is thrown on the surviving parent to maintain the children (if any) out of the income. On the intestacy of a husband, his widow would be entitled to the income whether she were the mother of his children or not, and whether she were married to a second husband or not, and the children might be left destitute.

The Committee recommend that, if the proposed alteration in the distribution of real estate be sanctioned, the words "*pari passu* with his personal estate," which would greatly fetter the discretion of the personal representatives of the deceased proprietor, should be struck out of clause 42, sub-section 1, and that as far as possible the administration of real and personal estate should be identical.

The powers given in the Bill to the personal representatives of a deceased proprietor to conclusively value the property of the deceased for the purpose of appropriation in specie is modified by requiring the valuation to be made in accordance with "the prescribed provisions."

Clause 44 is entirely new, and amends the law as to succession duty by making it an incumbrance on land capable of registration. The duty of entering a caution to protect this charge is thrown on the Land Transfer

Board, who are to inform the Commissioners of Inland Revenue, and the caution is to expire at the end of six months unless renewed by the Commissioners, who may not without special leave renew after the expiration of two years from the date of the original entry. The caution is to be removed on satisfaction of the duty. The clause is intended to render impossible, as against purchasers or grantees, the hardship of stale or dormant claims for duty, but its practical working is not clear.

The enlargement of estates tail into absolute estates in fee simple, without any disentailing assurance, is slightly modified, so as to provide for the continuance of the entail not only in the case of a tenant in tail in possession at the passing of the Act, but also in the case of a tenant in tail of unsound mind entitled in reversion at the date of the Act, and then and thenceforth until he becomes tenant in tail in possession. The section enlarging a base fee into a fee simple absolute has been struck out.

The clause abolishing future estates tail has been strengthened, and another clause added, extending the alteration of the law to lands of copyhold tenure. With the passing of the Act, therefore, estates tail will, except in the case of existing settlements, be no longer known to the English law.

#### PART V.

##### DISCONTINUANCE OF REGISTRIES OF DEEDS.

Power is taken to close local registries as to part only of the land within their districts, if such part is within a Land Transfer district.

In the clause (49, sub-section (1)) providing for the existing staff of existing registry offices, the words (p. 24,

CLAUSES  
43 and 49.

line 8) "if he so consents," which appear in the draft amendments have been inadvertently left out, and should be inserted after the word "or" in that line.

The remainder of the clause is unaltered.

#### PART VI.

##### SUPPLEMENTAL PROVISIONS.

The Committee refer to their observations on clause 37 CLAUSES 50-57. as to the extreme importance of allowing a sufficient interval to elapse before registration is in any district made compulsory. But the Land Transfer Board, if constituted at once, and entrusted with the preparation of the rules, must of course come into office as soon after the passing of the Act as possible.

An addition (sub-section (4)) has been made to clause 53, to which, if the Committee rightly apprehend its effect, they entertain very strong objection. The clause deals with the remuneration of the members and officers of the Land Transfer Board, and goes on to provide that "any officers employed on behalf of applicants for registration, or other persons dealing with the Land Transfer Office, may be remunerated by the payment of such fees by the parties as may be prescribed." This proviso appears to point to the establishment of officials authorised to transact for reward the business of the Land Transfer Office; and it is obvious that such a system would be extremely unfair to solicitors, and would, as has been previously found to be the case, lead to touting of a very objectionable character.

The Committee do not, of course, desire to limit the right of any proprietor to transact his own business without employing an agent of any kind. But if an agent be employed, and is to be remunerated for the services which

he may render, the Committee feel bound to claim that the business of conveyancing for fee or reward which has up to the present time been exclusively entrusted to solicitors should continue to be so entrusted. Public policy has hitherto dictated this course as the best in the public interest, and solicitors as a body have, in consequence of their exclusive privileges, been subjected to summary discipline and to numerous restrictions. They have to undergo a prolonged professional education and severe examinations, and their remuneration, instead of being, as in other professions, fixed by themselves, is carefully limited by statute. The Committee contend that it would be manifestly unfair and unreasonable to introduce, as part of a generally compulsory scheme, provisions tending to place the conduct of much, if not the greater part, of the conveyancing business of the country into official hands. The change would operate with special hardship on solicitors practising in the country or in small practice.

Moreover, on public grounds, and for guaranteeing as much as possible the *bona fides* and accuracy of dealings with land, it is important that those who practise in Land Transfer business should be responsible and well trained; and that all transactions should be conducted through a solicitor, who would identify the parties, and be amenable as an officer of the court for any irregularity.

If the Committee have correctly appreciated the intention of the proviso cited, they feel that on this point every possible opposition should be offered to the Bill.

In clause 56, in addition to District Registrars of the High Court, there are inserted as offices which may be made auxiliary to the Land Transfer Board, "clerks of the peace, clerks of Land Tax Commissioners, clerks to justices, or registrars of County Courts."

#### MISCELLANEOUS.

Clause 62 has been introduced to complete the assimilation of real and personal estate, and provides that the word "heirs" shall continue to take effect as a word of limitation only, for the purpose of determining the quantity of the estate or interest to be taken by the person in connection with whose name the word is used; but when used for the purpose of designating a class intended to take beneficially, shall, in documents executed before the passing of the Act, have the same meaning as at present; but in documents executed after the passing of the Act shall, unless a contrary intention appears, be construed to refer to the next of kin, according to the statute of distribution.

The Bill is to be construed as one with the Act of 1875, and is to come into operation on the 1st January, 1888.

#### SCHEDULES.

##### FIRST SCHEDULE.

The additional object of the insurance fund (sub-section (2) suggests that the difficulty inherent in an indefeasible title begins to be evident to the framers of the Bill, and that the idea of a guaranteed title is gaining ground. For this sub-section contemplates compensation to a registered proprietor dispossessed because his title was in some way vitiated by fraud, forgery, or error, and the real owner has been reinstated.

The cost of insurance is somewhat reduced by the new proviso on p. 33, which provides that where a transfer for valuable consideration is made within three months after first registration, no insurance fee shall be payable upon such transfer.

Clauses  
58-69.

First  
Schedule.

Sub-section C, as originally drawn, deprived a person of any claim to compensation, if he had contributed to the loss by the act, neglect, or default of himself or his agent. But as revised, the aggrieved person is to be entitled in such a case either to no compensation, or to a proportionately less amount of compensation according to the degree in which he has so contributed.

The Committee regret to find that no provision is made for full compensation to the person aggrieved, but only for compensation to the amount of the purchase money or charge. It is obvious that if a registered proprietor had acquired land for building, and had laid out money thereon, and was then dispossessed, the purchase money given for the vacant site would be a very inadequate compensation.

The Committee repeat their recommendation that, if the proposed scheme of insurance be retained, power should be given to a proprietor of land to increase the amount of his insurance by increasing his premium and filing a declaration of increased value in the prescribed manner.

### SUMMARY.

The principal suggestions of the Committee, omitting those which are verbal or consequential, may be thus summarised :

1. That compulsory registration is unjust to landowners, and, if the system were made workable and inexpensive, would be unnecessary.

2. That, whether compulsory or not, a system of guaranteed title is preferable to that of an indefeasible title as contemplated by the Bill.

3. That the Land Transfer Board should be selected from barristers and solicitors, and be presided over by a

judge of the Supreme Court, or some one of equal position and authority.

4. That the outlines of the arrangement for Branch Offices and Land Transfer Districts should be defined in the Bill.

5. That an interval of not less than six months should be allowed between the issue of the rules and the creation of any Land Transfer District involving compulsory registration.

6. That the duty of registration should be thrown on the grantee and not, as at present proposed, on the grantor.

7. That provision should be made to relieve a purchaser or other grantee from being affected with notice of the trusts of any settlement of the existence of which he will, by the fact of the proprietor appearing as tenant for life, necessarily become aware.

8. That the proposed confirmation of a possessory or qualified title after five years' advertisement would be open to grave danger and be of little practical use.

9. That the provisions for determining boundaries would give rise to much discussion, if not litigation, between neighbours, and would be seldom taken advantage of.

10. That inasmuch as landowners are compelled to register, and therefore to incur a risk which, as the Bill assumes, they would not incur voluntarily, the cost of insurance against that risk should not be thrown on them, but on the country.

11. That the enforced contribution to an insurance fund will largely add to the cost of registration and would, if registration were optional, be unnecessary.

12. That if an insurance fund be established, the remedy of an aggrieved proprietor should be against the

Adopted,  
1st Schedule  
par. 3.

Amended,  
Adopted,  
Clause 2,  
Schedule 1.

Adopted,  
Clause 2,  
Schedule 1.

Adopted,  
Clause 25,  
Schedule B.

fund directly without the necessity of preliminary proceedings against the person (if any) liable for the wrong, the Land Transfer Board having the right, if deemed worth having, to take proceedings on their own account.

Adopted,  
Schedule B,  
Clause 25.

13. That the right of an aggrieved proprietor should be to *full* compensation, and not merely to the cost of the land irrespective of buildings or other improvements.

14. That the power to make rules should not be vested in the Lord Chancellor alone, but that rules should be framed by the Land Transfer Board and be issued by the Lord Chancellor on their advice.

15. That the devolution, on death, of real and personal estate should either be left as at present or be assimilated for all purposes.

16. That without limiting the right of any proprietor to transact in person his own business, the conduct, for fee or reward, of legal business connected with land should, as heretofore, be entrusted to solicitors.

#### APPENDIX.

Epitome of the replies and observations made by country Law Societies to and upon the inquiries made by the Incorporated Law Society.

For the convenience of members a copy of the queries is printed by way of introduction.

- 1.—Whether, assuming Registration of Title to be desirable, the modification of the Land Transfer Act 1875, proposed by the Land Transfer Bill 1887, is the best scheme possible, and, if not, what improvements would be desirable.
- 2.—Whether the system of Registration of Title ought to be made compulsory.

- 3.—Whether a Land Transfer Board and its branches, formed in the manner suggested in the Bill, would be able to dispatch and deal promptly with the multitude of transactions in land which each day press for settlement.
- 4.—What effect the system proposed is likely to have on the cost of conveyancing, especially in transactions under £200.
- 5.—Whether the plan proposed for the conversion of Possessory or Qualified Titles into Absolute Titles is likely to work well.
- 6.—Whether the plan proposed for conclusively settling boundaries is likely to work well.
- 7.—Whether the plan proposed for an Insurance Fund is well adapted and sufficient to meet the dangers arising from fraud or mistake.
- 8.—Whether the proposed composition of the Land Transfer Board is satisfactory; or whether it would be capable of any, and what improvement.
- 9.—Whether the power of making the Rules by which the system of Registration, Confirmation of Title, and Transfer of Land and Charges, is to be formed and regulated, ought to be vested in the Lord Chancellor alone, or whether the concurrence should be required of any other authority.
- 10.—Whether it is desirable that real estates should vest on the death of the owner in his personal representatives.
- 11.—Whether it is desirable that, on the death intestate of a landowner, his real estate should be divided between his next of kin by his personal representatives as if it were personal estate.
- 12.—Whether it is desirable that estates tail should be abolished.

Twenty-one replies have been received, of which the following is an analysis.

Name of Society	1	2	3	4	5
*1. ASSOCIATED PROVINCIAL LAW SOCIETIES.	Not specifically answered.	No.	Depends on number of branches and area of districts.	Cannot say until scale of fees is known.	Doubt whether proposed notice is sufficient; we see no other objection.
2. BIRMINGHAM...	Scheme of Bill. Expedient subject to constitution of a real working Land Transfer Board, on which solicitors should be represented.	No.	No. Scheme must be perfected by experience before being applied to any county district.	Increased cost under any system of registration must be very great. About 5,000 sales and mortgages in Birmingham a year, of which four-fifths are under £1,000, and more than half under £500. Additional cost and delay will be felt to be oppressive.	Yes -- if compensation provided for fraud or mistake. Solicitor should concur in affidavit in support of application. November not a convenient month, because of parliamentary notices.
3. BRISTOL ...	Bill should not come into operation until promised Consolidation Act have passed, and Rules and Orders published for at least six months.	Yes.	Board should be composed of well-qualified lawyers, not engaged in private practice. District Registrars of the High Court not specially qualified and already much occupied	Ought to reduce cost; but whether it will do so depends on charges and fees of register.	Adopts rep Council on
4. CARDIFF ...	No. Registration should be thrown on the purchaser or grantee.	Yes.	No.	Cannot say.	Not likely to be popular.
5. CHESTER AND NORTH WALES	Agree generally with Report of Council. If Bill adopted, districts should be small.	No.	No.	Costs in small transactions would be considerably increased.	No.

\* Representing the Societies of Birmingham, Bolton, Chester and North Wales, Gloucestershire, Wakefield, Wolverhampton,

6	7	8	9	10	11	12
Reserve opinion.	Probably sufficient.	Should consist of lawyers, and in the country of solicitors.	Barristers and solicitors should be represented on the rule-making body.	Not answered.	Not answered.	Not answered.
As satisfactory as can be desired, but will be very little used.	Insurance should be provided by public, not by landowners, who are compelled to register.	Unsatisfactory. See reply to No. 1.	In Lord Chancellor and Land Transfer Board, constituted as suggested in reply to No. 1.	Distinction between real and personal estate should be altogether abolished.		Yes
Sort of the these points.	Well adapted -- the premium too high.	See reply to No. 3.	In a Board on which the Law Societies should be represented.	Yes, if realty and personalty placed on same footing as regards debts.	Yes	Yes.
No.	No.	No. Members should be trained lawyers.	By Land Transfer Board, with representatives of solicitors and barristers.	Yes.	Yes.	Yes.
No.	Very doubtful.	Only barristers and solicitors should be qualified as members and officers of Board.	In a Board consisting of the Lord Chancellor, Chief Registrar, one Urban Registrar, one Rural Registrar, a Conveyancing Barrister, one Town and one County Solicitor.	No serious objection.	Yes.	Yes.

Leeds, Lincolnshire, Liverpool, Manchester, Newcastle, Sheffield, Somersetshire, Sussex, and Worcestershire.

Name of Society	1	2	3	4	5	6	7	8	9	10	11	12
6. DERBY ...	Cannot say.	Yes.	Very doubtful.	Materially increase costs.	Useful provision, but difficult to carry out.	Cannot say.	Most useful.	Sufficiently satisfactory.	In Board consisting of Lord-Chancellor, a certain number of Judges, and representatives of London and County Law Societies.	Yes.	Not questions for Solicitors, but statesmen.	
7. GLOUCESTER-SHIRE AND WILTSHIRE	Should be embodied in one Act. Object to grafting a scheme for compulsory registration, or an Act for voluntary registration only.	No; but opinion divided. If adopted, should be applied to entire county, and be made applicable after, and not before, the first dealing with land after passing of Act.	Depends on sufficiency of staff. District Land Registries should be distinct from other local registries.	Will increase cost, especially in regard to smaller transactions, as e.g., those connected with Building Societies in country towns.	Should be accompanied by additional protections for absent owners.	No.	Insurance fund essential, but the true owner should recover the land and the registered owner be compensated for his loss. Measure of compensation should be full value at time of loss.	Unsatisfactory no qualification being prescribed. Barristers and solicitors should alone be eligible.	In a tribunal on which solicitors should be represented. Solicitors should be the only agents entitled to transact business with the Registry for reward.	No reason to oppose change.		
8. HUDDERSFIELD	No. Registration should be by purchaser or grantee.	No.	N	Will greatly increase cost.	No.	No.	No. Cost should fall on public.	No. Should consist of trained lawyers.	In Board with representatives of Bar and solicitors.	Yes.	Yes.	Yes.
9. HULL ...	Registration should be of possessory titles only without examination of Registrar, and should be on the next dealing after the passing of the Act.	No	No.	Will enormously tax all present owners, and in future increase cost.	Impracticable.	Impracticable and most expensive.	Proposal good, but would require an action in every case to settle claim.	Highly unsatisfactory.	In authority constituted by Solicitors' Remuneration Act, in whom also patronage should be vested. Registrars of Supreme and County Courts not well qualified. No registrars or other officials should be allowed to practice.	Yes.	Yes.	Yes.
10. LEICESTER ...	—	No.	—	Will increase cost.	—	—	No. Insurance should fall on public, not on landowners.	—	Not solely on Lord Chancellor. Incorporated Law Society would be considered.	Yes.	Yes.	Yes.

Name of Society	1	2	3	4	5
11. LEICESTER ...	Scheme will not do much evil	No.	No. A full staff in each district essential.	Will increase cost and delay. In transactions under £200, cost will be almost prohibitory. At present, small transactions often completed within a week.	Opinion divided.
12. LIVERPOOL ...	Answer not quite clear, but apparently in favour of compulsion, if registration adopted at all.			Subject to this.	Agree
13. NOTTINGHAM ...	No—too complicated.	No.	No.	Would cause much greater expense especially in small transactions. Cannot form an opinion as to subsequent expenses.	No.
14. NEWCASTLE-UPON-TYNE ...	No.	No.	—	Will increase delay.	No.
15. PRESTON ...	Scheme <i>quasi</i> practicable; not capable of much improvement.	No—will work great hardship on small proprietors. In Preston there are upwards of 15,000 cottages varying in value, from £70 to £200, owned by about 5,000 persons. Cost of transfer rarely exceeds £3.15s.	No. Sales of small property usually completed within 14 days.	Difficult to form an opinion, but in small transactions cost will certainly be increased.	No.
16. SHEFFIELD ...	No.	No.	No.	Would greatly increase cost, especially in small transactions.	No.

6	7	8	9	10	11	12
Opinion divided.	Quite unnecessary as mistakes in title scarcely ever heard of.	Board should consist largely of practising solicitors.	Not in Lord Chancellor alone. Solicitors should be represented and special provision be made for small transactions.	Yes.	Yes.	Yes.
generally with Report of Council.						
No.	Insurance fund should recoup person improperly deprived, and a simpler means than action for damages should be provided.	Registrars of District Registries of the High Court not qualified.	In a Committee specially acquainted, practically and theoretically, with real property, law, and conveyancing.	No.	Depends on public policy.	No.
No.	A formidable additional tax.	—	In Board including Bar and solicitors.	Yes.	—	—
No.	No.	Registrar General and Registrars should be persons of legal training, and any barristers or solicitors should be appointed.	Adopts suggestion of Council that Board should include representatives of Bar and Law Societies. Only solicitors should be allowed to conduct registration business for reward.	Yes.	Yes.	Yes.
No.	Yes.	Express no opinion.	In Lord Chancellor, President of I.L.S., and Attorney-General.	Yes.	No.	No.



Name of Society	1	2	3	4	5
17. SOMERSETSHIRE ...	No answer.	No.	Must depend on circumstances.	Will largely increase cost, especially in small transactions.	Yes, but with doubt.
18. SUNDERLAND...	No decision.	No.	Yes, if sufficient staff.	No answer.	Yes.
19. SUSSEX ...	Risky and dangerous experiment.	No.	Very doubtful.	Would increase cost in small transactions.	No.
20. WAKEFIELD ...	No.	Yes, if Bill is to work.	No.	Costs will be almost prohibitory.	No.
21. GREAT YARMOUTH ...	Registries should be established in every market town, and the knowledge of local solicitors utilised.	No.	No.	Costs upon small county transactions will be very greatly increased.	Cannot say.

6	7	8	9	10	11	12
Yes, but with doubt.	Cost of insurance should not fall upon land-owners.	All officials should be trained lawyers experienced in practice of conveyancing.	Both branches of the profession should be associated with Lord Chancellor.	Yes.	No.	Yes.
Yes.	Yes.	Yes.	In a Committee including solicitors.	Yes.	Yes.	Yes.
No.	Doubtful, and cost would be heavy.	Unsatisfactory.	Not in Lord Chancellor alone; he should have an experienced Committee.	Yes.	Yes.	No.
No.	Cannot form an opinion.	Should consist of able, qualified, energetic, and experienced solicitors.	The Land Transfer Board and I. L. S. should be consulted.	Not unanimous, and consider the questions rather of public policy than of law.		
Cannot say	Object to the good titles having to pay for bad, and considers that with local registries and the intervention of a solicitor, fraud or mistake would be hardly possible.	No.	Nor in Lord Chancellor alone, but in some Board on which solicitors should be represented.	Yes.	Yes.	Yes.

The result may be thus summed up—

A large majority of the replies are, on the assumption that Registration of Title is to be adopted, in favour of the scheme of the Bill, but stress is laid on the importance of a Consolidation Act (which the Lord Chancellor has since promised) and of numerous local registries with small districts. On the question whether or not the system should be compulsory, there is some difference of opinion, 15 being against and 5 in favour of that course, while the view is more than once expressed that registration, if compulsory, should be applicable to possessory titles only, and be in respect of the next dealing after the passing of the Act.

Fears are expressed that the system will be choked with the volume of work, unless district registries are very numerous and have but small districts attached to them, and unless the local knowledge of practising solicitors be utilised.

That registration must involve increased cost and delay is the almost unanimously expressed opinion, and special stress is laid upon this in small transactions which are so numerous in the country. The societies of Birmingham and Preston give valuable details upon this point.

Opinions are divided, but are, on the whole, adverse to the proposed plan by which possessory or qualified titles are made convertible into absolute titles, and fears are expressed that it would facilitate fraud, and would not be found useful enough to justify the cost and risk.

Not one of the societies is in favour of the plan for conclusively settling boundaries, and fears are evidently felt that, if the plan should be adopted, much litigation would certainly result.

The insurance fund is generally admitted to be a

necessary part of the scheme, but objection is taken to its cost being thrown upon landowners, who are compelled to register, instead of upon the public, and to the high rate of premiums.

The composition of the Land Transfer Board is not considered satisfactory. The expression in the memorandum prefixed to the Bill that it would consist of "persons of experience in organisation and administration as well as in conveyancing," is quoted, and the societies are unanimous in desiring that solicitors, who necessarily have much practical experience, should form part of the Board.

There is a strong feeling that the power of making rules should not be vested in the Lord Chancellor alone, but in a Board on which barristers and solicitors should be represented.

The three alterations in the law referred to in questions 10, 11, and 12 are almost unanimously approved, though some of the societies consider the question one of public policy rather than of law.

In addition to replies to the specific questions, most of the societies expressed opinions upon the Bill or specific clauses in it, and these have been carefully considered and to some extent embodied in the supplemental Report.

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**END OF  
TITLE**